IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20314 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ? YES
2	To be referred to the Reporter or not ? NO
3	Whether their Lordships wish to see the fair copy of the judgment ? NO
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? NO
5	Whether it is to be circulated to the civil judge ? NO

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TITABHAI KHUMANBHAI GANAVA & 2 - Petitioners
Versus
PUNIYABHAI GALABHAI GANAVA & 5 - Respondents

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Appearance :
MR NIRAL R MEHTA for Petitioners.
RULE SERVED for Respondent(s) : 1 - 6.
MR RJ GOSWAMI for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 05/10/2007
ORAL JUDGMENT

1. The petitioners – original plaintiffs have filed this petition under Article 227 of the Constitution of India challenging the order passed by the learned Presiding Officer, Fast Track Court, Dahod in Misc. Civil Appeal No. 328 of 2004 on 18.08.2005 whereby the learned Presiding Officer has reversed the order passed below application Exh. 5 in Regular Civil Suit No. 116 of 2004 by the learned Civil Judge (J.D.), Dahod.

2. This Court has issued Rule on 07.07.2006 and ad-interim relief in terms of paragraph 10 (c) was granted whereby the order passed by the learned Presiding Officer, Fast Track Court, Dahod in Misc. Civil Appeal No. 328 of 2004 on 18.08.2005 was stayed.

3. Heard Mr. Niral R. Mehta, learned advocate appearing for the petitioners and Mr. R. J. Goswami learned advocate appearing for the respondent Nos. 1 & 2 – contesting respondents.

4. Since there is consensus amongst the parties that instead of deciding the matter on merits, the interest of justice would better be served if the trial Court is directed to decide and dispose of the suit i.e. Regular Civil Suit No. 116 of 2004 as expeditiously as possible, preferably within a period of six months and till the said suit is disposed of, the interim injunction granted by the Trial Court while deciding application Exh. 5 would

continue. Accordingly, the Trial Court is hereby directed to decide and dispose of Regular Civil Suit No. 116 of 2004 as expeditiously as possible, preferably within a period of six months from the date of receipt of writ or from the date of receipt of certified copy of this order, whichever is earlier. Till the suit is decided, interim injunction granted while deciding application Exh. 5 would continue.

5. It is made clear that the Court has not gone into the merits of the matter and the Trial Court will decide the suit without being influenced by its order passed below Exh. 5 or the order passed by the appellate Court or by this Court and it is to be decided on the basis of the evidence led before the Trial Court. The parties to the proceedings are directed to cooperate for early disposal of the suit.

6. Subject to the aforesaid direction and observation, this petition is accordingly disposed of. Rule is made absolute without any order as to costs.

7. Direct service is permitted.

Sd/-
[K. A. PUJ, J.]

Savariya